

EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

UNITED STATES OF AMERICA,
Plaintiff,
v.
UNITED MICROELECTRONICS
CORPORATION, *et al.*,
Defendant

CASE NO.: 3:18-CR-00465-MMC

**LETTER OF REQUEST FOR
INTERNATIONAL JUDICIAL
ASSISTANCE PURSUANT TO THE
GOVERNMENT OF THE PEOPLE'S
REPUBLIC OF CHINA**

Judge: The Honorable Maxine M. Chesney

TO THE MINISTRY OF JUSTICE OF THE PEOPLE'S REPUBLIC OF CHINA:

The United States District Court for the Northern District of California presents its compliments to the Ministry of Justice of the People's Republic of China (the "Ministry") and requests international judicial assistance to permit Defendant Fujian Jinhua Integrated Circuit Co., Ltd. ("Jinhua") in the above-captioned criminal matter to obtain live witness testimony to be used in the proceeding before this Court in the above-captioned matter. This Court respectfully requests that the Ministry recognize this Letter of Request, issued based on this Court's inherent power, and arrange for its execution in the interest of comity. This Letter of Request is also consistent with the diplomatic note served on~~information provided by the Fujian Provincial Justice Department to Jinhua on June 19 and 20, 2022 that the view of the Chinese competent authority was that approval for live testimony of witnesses in the United States~~ Department of State by the Embassy~~on behalf~~ of Jinhua needed to be obtained through the formal Agreement between the Government of the United States of America and the Government of the People's Republic of China ~~in Washington, D.C. on or about June 7, 2022, which stated that the People's Republic of China was open to~~

1 receiving both ~~MLAA~~ requests and on Mutual Legal Assistance in Criminal Matters (the “MLAA”)
 2 or letters rogatory ~~for the live testimony of witnesses on behalf of Jinhua~~. Trial in this matter
 3 commenced on February 28, 2022.
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5 This Court requests the assistance described herein as necessary in the interests of justice.
 6 This Letter of Request is made pursuant to the authority granted under 28 U.S.C. § 1781(b)(2),
 7 which provides reciprocal assistance to the Court of the People’s Republic of China if future
 8 circumstances so require. The particulars of this Letter of Request are as follows:
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1. Sender:	The Honorable Maxine M. Chesney United States District Court for the Northern District of California San Francisco Courthouse Courtroom 7 – 19th Floor 450 Golden Gate Avenue San Francisco, CA 94102
2. Authority of the Requested State:	Ministry of Justice of the People’s Republic of China <u>Bureau of International Legal Cooperation</u> <u>Center</u> Ministry of Justice of China 33, Pinganli Xidajie Xicheng District Beijing 100035 People’s Republic of China <u>Contact Person: SUN Ruiyun</u>
3. Person to Whom the Executed Request Is To Be Returned:	Jack P. DiCanio SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP 525 University Avenue Palo Alto, California 94301 An officer of the Court on behalf of: The Honorable Maxine M. Chesney United States District Court for the Northern District of California San Francisco Courthouse Courtroom 7 – 19th Floor 450 Golden Gate Avenue, San Francisco, CA 94102
4. Response Date:	The requesting authority respectfully requests

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that the Ministry respond to the below document as soon as possible, and would be grateful if the Ministry would be kind enough to respond by August 1, 2022.

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2	5. Requesting Judicial Authority:
3	The Honorable Maxine M. Chesney
4	United States District Court for the Northern
5	District of California
6	San Francisco Courthouse
7	Courtroom 7 – 19th Floor
8	450 Golden Gate Avenue,
9	San Francisco, CA 94102
10	
11	6. Name of the Case and Identifying
12	Number:
13	<i>United States of America v. United</i>
14	<i>Microelectronics Corporation, et. al.,</i> Case
15	No.: 3:18-cr-00465-MMC
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2 **Parties and Their Representatives:**

3 United States of America	Stephanie M. Hinds, Esq. United States Attorney for the Northern District of California
4	Thomas A. Colthurst, Esq. Chief, Criminal Division, for the Northern District of California
5	Laura Vartain Horn, Esq. Nicholas Walsh, Esq. Assistant United States Attorneys
6	Nicholas O. Hunter, Esq. Stephen Marzen, Esq.
7	Trial Attorneys, National Security Division of
8	the United States Department of Justice
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13 Fujian Jinhua Integrated Circuit Co., Ltd.	Jack P. DiCanio Emily Reitmeier SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP 525 University Avenue Palo Alto, California 94301 Telephone: (650) 470-4500 Facsimile: (650) 470-4570
14	
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16	
17	Matthew E. Sloan SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP 300 South Grand Avenue, Suite 3400 Los Angeles, California 90071-3144 Telephone: (213) 687-5000 Facsimile: (213) 687-5600
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21 **Nature and Purpose of the Proceedings:**

22 On September 27, 2018, this case commenced upon the return of a sealed indictment
23 against United Microelectronics Corporation (“UMC”); Fujian Jinhua Integrated Circuit, Co., Ltd.
24 (“Jinhua”); Chen Zhengkun, a.k.a Stephen Chen; He Jianting, a.k.a. J.T. Ho; and Wang Yungming,
25 a.k.a. Kenny Wang. (The indictment was unsealed on or about October 30, 2018). The United
26 States alleged that the defendants violated various criminal statutes related to the misappropriation
27

1 of trade secrets. The charges stemmed from allegations that the defendants conspired to steal trade
 2 secrets related to DRAM semiconductor chips belonging to Micron Technology, Inc.
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4 For its part in the alleged conspiracy, Jinhua was charged with violating: (1) 18 U.S.C.
 5 § 1831(a)(5), conspiracy to commit economic espionage; (2) 18 U.S.C. § 1832(a)(5), conspiracy to
 6 commit theft of trade secrets; and (3) 18 U.S.C. §§ 1831(a)(3) and 2, economic espionage
 7 (receiving and possessing stolen trade secrets). The maximum penalties for each violation of §
 8 1831 is: (1) A fine not more than the greater of \$10,000,000 or 3 times the value of the stolen trade
 9 secret to the organization, including the expenses for research and design and other costs of
 10 reproducing the trade secret that the organization has thereby avoided; (2) Restitution; (3) Asset
 11 Forfeiture; and (4) a \$400 special assessment. The maximum penalty for the violation of § 1832 is:
 12 (1) A fine not more than the greater of \$5,000,000 or 3 times the value of the stolen trade secret to
 13 the organization, including the expenses for research and design and other costs of reproducing the
 14 trade secret that the organization has thereby avoided; (2) Restitution; (3) Asset Forfeiture; and (4)
 15 a \$400 special assessment. Infringement upon trade secrets is illegal under the Anti-Unfair
 16 Competition Law of the People's Republic of China.

17 On February 28, 2022, the trial of Defendant Jinhua commenced. Following five weeks of
 18 testimony, on April 4, 2022, the government rested. Jinhua then presented testimony from one
 19 witness for three days. At that point, on April 6, 2022, trial was adjourned and continued to a future
 20 date. As Jinhua is incorporated and based in the People's Republic of China, the remaining
 21 witnesses necessary for it to present its defense are all located in the PRC. But due to a
 22 combination of COVID-19-related complications and health issues, none of those witnesses have
 23 been able to travel to the United States for trial. Two of Jinhua's witnesses are now able to travel to
 24 the United States for trial to provide live, in-person testimony.

25 **Request for Assistance**

26 Jinhua's witnesses You Zhenfu (Jeff Yu) and Wu Junsheng are willing to testify in-person
 27 in the United States, but the Court is aware that, on October 26, 2018, the People's Republic of
 28 China enacted the International Criminal Judicial Assistance Law, ~~which, in part, only allows the~~
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1 ~~provision of such testimony upon the approval of the PRC government.~~ As noted above, Jinhua
 2 has been informed the Fujian Provincial Justice Department that the view of the Chinese competent
 3 authority that, pursuant to the International Criminal Judicial Assistance Law, approval by the
 4 Chinese competent authorities is needed for the live testimony of witnesses in the United States on
 5 behalf of Jinhua..

6 The Court, in the spirit of comity and reciprocity, hereby requests international judicial
 7 assistance in the form of this Letter of Request to the Ministry of Justice of the People's Republic
 8 of China ~~to make the following persons available~~seeking the consent of the competent authorities
 9 of the People's Republic of China for You Zhenfu (Jeff Yu) and Wu Junsheng to give evidence.
 10 The evidence will be taken in the form of a live, oral examination of the witnesses, in a courtroom
 11 in San Francisco, California, United States, with questions potentially asked by counsel for Jinhua,
 12 the United States government, and/or the judge.

Name	Address	Gender	Occupation
You Zhenfu	No. 88, Lianhua Avenue, Jinjiang City, Quanzhou City, Fujian Province, China	Male	Director of Human Resources, Jinhua
Wu Junsheng	No. 88, Lianhua Avenue, Jinjiang City, Quanzhou City, Fujian Province, China	Male	Director of Finance, Jinhua

20 Questions To Be Addressed in Testimony

You Zhenfu	<ol style="list-style-type: none"> 1. The witness's background and relationship to UMC and Jinhua. 2. The recruitment of employees to work on UMC's DRAM development. 3. The implementation of the Talent Retention Bonus Program and He Jianting (JT Ho), Li Fuzhe (Neil Lee), and Guo Fengming's (Ray Kuo) relationships with UMC and Jinhua. 4. The witness's attendance with UMC and Jinhua employees at events in the United States.
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1	Wu Junsheng	1. The witness's background and relationship to Jinhua. 2. The Talent Retention Bonus Program and He Jianting (JT Ho), Li Fuzhe (Neil Lee), and Guo Fengming's (Ray Kuo) relationship to Jinhua. 3. Jinhua and UMC's agreement concerning the procurement of tools. 4. Chen Zhengkun's (Stephen Chen) relationship to Jinhua. 5. Jinhua's payments to UMC.
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Reciprocity

The United States District Court for the Northern District of California is willing to provide similar assistance to the judicial authorities of the PRC.

Reimbursement for Costs

The fees and costs incurred by the Ministry of Justice of the People's Republic of China in executing this Request will be borne by Defendant Jinhua.

Date:

The Honorable Maxine M. Chesney
United States District Court for the
Northern District of California
San Francisco Courthouse
Courtroom 7 – 19th Floor
450 Golden Gate Avenue,
San Francisco, CA 94102

Summary report:	
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Table Delete	0
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	23